

Restriction of emission of fugitive dust, Rule OAC 3745-17-11, entitled Restrictions on particulate emissions from industrial processes, Rule OAC 3745-17-13, entitled Additional restrictions on particulate emissions from specific air contaminant sources in Jefferson county, and OAC 3745-17-14, entitled Contingency plan requirements for Cuyahoga and Jefferson counties.

(B) Rule OAC 3745-17-12, entitled Additional restrictions on particulate emissions from specific air contaminant sources in Cuyahoga county, as effective on January 31, 1998, except for paragraphs (I)(50) and (I)(51).

(ii) Additional material.

(A) Letter from Robert Hodanbosi, Chief of Ohio EPA's Division of Air Pollution Control, to EPA, dated February 12, 2003.

(B) Telefax from Tom Kalman, Ohio EPA, to EPA, dated January 7, 2004, providing supplemental documentation of emissions estimates for Ford's Cleveland Casting Plant.

(C) Memorandum from Tom Kalman, Ohio EPA to EPA, dated February 1, 2005, providing further supplemental documentation of emission estimates.

(D) E-mail from Bill Spires, Ohio EPA to EPA, dated April 21, 2005, providing further modeling analyses.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 51

[WC Docket No. 06-132, FCC 06-132]

#### Petition of Mid-Rivers Telephone Cooperative, Inc.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission concludes that Mid-Rivers Telephone Cooperative, Inc. (Mid-Rivers) should be treated as an incumbent local exchange carrier (LEC) in the Terry, Montana local exchange (Terry exchange). The Commission also concludes that Mid-Rivers' operations in the Terry exchange should remain subject to existing competitive LEC regulation for interstate purposes pending further Commission action. In addition, the Commission concludes that Qwest, the legacy incumbent LEC in the Terry exchange, should be subject to non-dominant regulation for its interstate telecommunications services in that exchange pending further action.

**DATES:** Effective October 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Adam Kirschenbaum, (202) 418-7280, Competition Policy Division, Wireline Competition Bureau. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at 202-418-0214, or via the Internet at [PRA@fcc.gov](mailto:PRA@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (Order) in WC Docket No. 02-78, adopted August 31, 2006, and released October 11, 2006. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

People with Disabilities: Contact the FCC to request materials in accessible formats (Braille, large print, electronic files, audio format, etc.) by e-mail at [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (TTY).

#### Synopsis of the Report and Order

The Commission concludes that Mid-Rivers satisfies the three-part test in section 251(h)(2) and should be treated as an incumbent LEC for purposes of section 251. Specifically, the Commission finds that the Terry exchange is the appropriate area for consideration under section 251(h)(2)(A), that Mid-Rivers occupies a market position comparable to that of a traditional legacy incumbent LEC in the Terry exchange, that Mid-Rivers has "substantially replaced" Qwest in the Terry exchange, and that treating Mid-Rivers as an incumbent LEC for purposes of section 251 in the Terry exchange is consistent with the public interest. The Commission expects that the treatment of Mid-Rivers as an incumbent LEC for purposes of access charges, universal service support and other purposes will be addressed, as appropriate, in conjunction with the study area boundary waiver request that Mid-Rivers has stated it plans to file. Thus, Mid-Rivers remains subject to existing competitive LEC non-dominant regulation for its interstate telecommunications services pending further Commission action.

Further, the Commission reduces the extent of regulation applicable to Qwest's interstate services in the Terry exchange. In the Notice of Proposed Rulemaking, 69 FR 69573, November 30, 2004, the Commission sought comment on the appropriate regulatory treatment of Qwest if the Commission found Mid-Rivers to be an incumbent LEC under section 251(h)(2). In light of the record in the proceeding, the Commission concludes that Qwest should be treated as a non-dominant carrier in the Terry exchange for purposes of its interstate service offerings. If Qwest chooses, however, it may continue to operate pursuant to dominant carrier regulation since this might be more convenient for administrative purposes given the very small number of lines involved. If Qwest operates under non-dominant carrier regulation in the Terry exchange, to preserve the status quo pending further agency action, the Commission caps Qwest's carrier-to-carrier interstate switched exchange access rates in the Terry exchange at their level on the date the Commission adopted this Order. Qwest may, however, lower these rates subject to compliance with non-dominant carrier regulatory requirements. Additionally, Qwest may request additional deregulation in the Terry exchange by filing a formal petition for forbearance consistent with the relevant Commission rules, although it has not yet done so.

#### Paperwork Reduction Act

This document does not contain new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

#### Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking, 69 FR 69573, November 30, 2004. The Commission received no comments regarding the IRFA.

In conformance with the RFA, we certify that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). Our rule treating Mid-Rivers as an incumbent LEC pursuant to section 251(h)(2) will

affect only Mid-Rivers directly. Even if Mid-Rivers can be classified as a small entity, it does not constitute a "substantial number of small entities" for purposes of the RFA. In addition, we accord non-dominant carrier status to Qwest's interstate telecommunications operations in the Terry exchange and cap Qwest's carrier-to-carrier switched access rates in the Terry exchange at their levels as of the date of adoption of this Order. We note that Qwest is not a small entity. In addition, it appears that our actions with regard to Qwest fall outside the scope of the RFA because they are rules of particular applicability involving rates and pricing. See generally 5 U.S.C. 601(2).

#### Ordering Clauses

Accordingly, *It is ordered*, pursuant to section 251(h)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 251(h)(2), and § 51.223 of the Commission's rules, 47 CFR 51.223, that Mid-Rivers Telephone Cooperative, Inc. will be treated as an incumbent local exchange carrier for purposes of section 251 in the Terry, Montana exchange, as described herein.

*It is Further Ordered* that Qwest is relieved of its dominant carrier status for its interstate telecommunications services in the Terry exchange as described herein.

*It is Further Ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 06-2061; MB Docket No. 06-50; RM-11316]

### Radio Broadcasting Services; Carrizo Springs, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document grants a petition for rulemaking filed by Jeraldine Anderson d/b/a Carrizo Springs Broadcasting requesting the allotment of Channel 295A at Carrizo Springs, Texas. The coordinates for Channel 295A at Carrizo Springs, Texas, are 28-27-00 NL and 99-50-30 WL. There is a site restriction 8.1 kilometers (5.1 miles) south of the community. A counterproposal filed by Linda Crawford is dismissed as defective.

**DATES:** Effective December 4, 2006

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 06-50, adopted October 18, 2006, and released October 20, 2006. The *Notice of Proposed Rulemaking* proposed the

allotment of Channel 295A at Carrizo Springs, Texas. 71 FR 14444, March 22, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20054, telephone 800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 295A at Carrizo Springs, Texas.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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